

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1004 be amended to read as follows:

- 1 Page 9, delete lines 3 through 42.
- 2 Delete pages 10 through 11.
- 3 Page 12, delete lines 1 through 32, begin a new paragraph and
- 4 insert:
- 5 "SECTION 8. IC 4-33-2-5.6 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 2002]: **Sec. 5.6. "Cruise" means to depart from the dock while**
- 8 **gambling is conducted.**
- 9 SECTION 9. IC 4-33-2-7 IS AMENDED TO READ AS FOLLOWS
- 10 [EFFECTIVE JULY 1, 2002]: Sec. 7. "Dock" means the location where
- 11 ~~an excursion~~ a riverboat moors for the purpose of embarking
- 12 passengers ~~for onto~~ and disembarking passengers from ~~a gambling~~
- 13 ~~excursion~~ **the riverboat.**
- 14 SECTION 10. IC 4-33-2-15.5 IS ADDED TO THE INDIANA
- 15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 16 [EFFECTIVE JULY 1, 2002]: **Sec. 15.5. "Patron" means an**
- 17 **individual who:**
- 18 **(1) boards a riverboat; and**
- 19 **(2) is not entitled to receive a tax free pass.**
- 20 SECTION 11. IC 4-33-2-16.5 IS ADDED TO THE INDIANA
- 21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 22 [EFFECTIVE JULY 1, 2002]: **Sec. 16.5. "Reporting period" means**
- 23 **a twenty-four (24) hour increment used by the department under**
- 24 **this article, commencing at 6 a.m. on one (1) day and concluding at**
- 25 **5:59 a.m. on the following day.**
- 26 SECTION 12. IC 4-33-4-10 IS AMENDED TO READ AS
- 27 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. **If a riverboat**
- 28 **cruises,** the commission shall authorize the route of ~~a the~~ riverboat and
- 29 the stops, if any, that the riverboat may make **while on a cruise.**
- 30 SECTION 13. IC 4-33-4-21.2, AS AMENDED BY P.L.215-2001,
- 31 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2002]: Sec. 21.2. (a) The Indiana gaming commission shall require a licensed owner to conspicuously display the number of the toll free telephone line described in IC 4-33-12-6 in the following locations:

(1) On each admission ticket to a riverboat ~~gambling excursion~~
if tickets are issued.

(2) On a poster or placard that is on display in a public area of each riverboat where gambling games are conducted.

(b) The toll free telephone line described in IC 4-33-12-6 must be:

(1) maintained by the division of mental health and addiction under IC 12-23-1-6; and

(2) funded by the addiction services fund established by IC 12-23-2-2.

(c) The commission may adopt rules under IC 4-22-2 necessary to carry out this section.

SECTION 14. IC 4-33-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The commission may issue to a person a license to own ~~one (1)~~ a riverboat subject to the numerical and geographical limitation of owner's licenses under this section, **section 3.5 of this chapter**, and IC 4-33-4-17. However, not more than eleven (11) owner's licenses may be in effect at any time. Except as provided in subsection (b), those eleven (11) licenses are as follows:

(1) Two (2) licenses for a riverboat that operates from the largest city located in the counties described under IC 4-33-1-1(1).

(2) One (1) license for a riverboat that operates from the second largest city located in the counties described under IC 4-33-1-1(1).

(3) One (1) license for a riverboat that operates from the third largest city located in the counties described under IC 4-33-1-1(1).

(4) One (1) license for a city located in the counties described under IC 4-33-1-1(1). This license may not be issued to a city described in subdivisions (1) through (3).

(5) A total of five (5) licenses for riverboats that operate upon the Ohio River from counties described under IC 4-33-1-1(2). The commission may not issue a license to an applicant if the issuance of the license would result in more than one (1) riverboat operating from a county described in IC 4-33-1-1(2).

(6) One (1) license for a riverboat that operates upon Patoka Lake from a county described under IC 4-33-1-1(3).

(b) If a city described in subsection (a)(2) or (a)(3) conducts two (2) elections under section 20 of this chapter, and the voters of the city do not vote in favor of permitting riverboat gambling at either of those elections, the license assigned to that city under subsection (a)(2) or (a)(3) may be issued to any city that:

(1) does not already have a riverboat operating from the city; and

(2) is located in a county described in IC 4-33-1-1(1).

SECTION 15. IC 4-33-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. The commission may not issue an owner's license under this chapter to a person if:

(1) the person has been convicted of a felony under Indiana law, the laws of any other state, or laws of the United States;

(2) the person has knowingly or intentionally submitted an application for a license under this chapter that contains false information;

(3) the person is a member of the commission;

(4) the person is an officer, a director, or a managerial employee of a person described in subdivision (1) or (2);

(5) the person employs an individual who:

(A) is described in subdivision (1), (2), or (3); and

(B) participates in the management or operation of gambling operations authorized under this article;

(6) the person owns an ownership interest of more than ~~ten percent (10%) in more than one (1) other person holding an owner's license issued under the total amount of ownership interest permitted under section 3.5 of this chapter~~; or

(7) a license issued to the person:

(A) under this article; or

(B) to own or operate gambling facilities in another jurisdiction;

has been revoked.

SECTION 16. IC 4-33-6-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3.5. (a) For purposes of this section, a person is considered to have an ownership interest in a riverboat owner's license if the interest is owned directly or indirectly by the person or by an entity controlled by the person.**

(b) A person may have up to a one hundred percent (100%) ownership interest in not more than two (2) riverboat licenses issued under this chapter.

(c) A person may not have an ownership interest in more than two (2) riverboat owner's licenses issued under this chapter.

(d) This section may not be construed to increase the maximum number of licenses permitted under section 1 of this chapter or the number of riverboats that may be owned and operated under a license under section 10 of this chapter.

SECTION 17. IC 4-33-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) A licensed owner must post a bond with the commission at least sixty (60) days before the commencement of ~~regular gambling on the riverboat. excursions.~~

(b) The bond shall be furnished in:

(1) cash or negotiable securities;

(2) a surety bond:

- 1 (A) with a surety company approved by the commission; and
- 2 (B) guaranteed by a satisfactory guarantor; or
- 3 (3) an irrevocable letter of credit issued by a banking institution
- 4 of Indiana acceptable to the commission.
- 5 (c) If a bond is furnished in cash or negotiable securities, the
- 6 principal shall be placed without restriction at the disposal of the
- 7 commission, but income inures to the benefit of the licensee.
- 8 (d) The bond:
- 9 (1) is subject to the approval of the commission;
- 10 (2) must be in an amount that the commission determines will
- 11 adequately reflect the amount that a local community will expend
- 12 for infrastructure and other facilities associated with a riverboat
- 13 operation; and
- 14 (3) must be payable to the commission as obligee for use in
- 15 payment of the licensed owner's financial obligations to the local
- 16 community, the state, and other aggrieved parties, as determined
- 17 by the rules of the commission.
- 18 (e) If after a hearing (after at least five (5) days written notice) the
- 19 commission determines that the amount of a licensed owner's bond is
- 20 insufficient, the licensed owner shall upon written demand of the
- 21 commission file a new bond.
- 22 (f) The commission may require a licensed owner to file a new bond
- 23 with a satisfactory surety in the same form and amount if:
- 24 (1) liability on the old bond is discharged or reduced by judgment
- 25 rendered, payment made, or otherwise; or
- 26 (2) in the opinion of the commission any surety on the old bond
- 27 becomes unsatisfactory.
- 28 (g) If a new bond obtained under subsection (e) or (f) is
- 29 unsatisfactory, the commission shall cancel the owner's license. If the
- 30 new bond is satisfactorily furnished, the commission shall release in
- 31 writing the surety on the old bond from any liability accruing after the
- 32 effective date of the new bond.
- 33 (h) A bond is released on the condition that the licensed owner
- 34 remains at the site for which the owner's license is granted for the
- 35 lesser of:
- 36 (1) five (5) years; or
- 37 (2) the date the commission grants a license to another licensed
- 38 owner to operate from the site for which the bond was posted.
- 39 (i) A licensed owner who does not meet the requirements of
- 40 subsection (h) forfeits a bond filed under this section. The proceeds of
- 41 a bond that is in default under this subsection are paid to the
- 42 commission for the benefit of the local unit from which the riverboat
- 43 operated.
- 44 (j) The total and aggregate liability of the surety on a bond is limited
- 45 to the amount specified in the bond and the continuous nature of the
- 46 bond may in no event be construed as allowing the liability of the
- 47 surety under a bond to accumulate for each successive approval period

during which the bond is in force.

(k) A bond filed under this section is released sixty (60) days after:

(1) the time has run under subsection (h); and

(2) a written request is submitted by the licensed owner.

SECTION 18. IC 4-33-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) An owner's license issued under this chapter permits the holder to own and operate one (1) riverboat and equipment for each license.

(b) **An owner's license issued under this chapter permits the holder to:**

(1) conduct gambling games authorized under this article while the riverboat is cruising or docked; and

(2) allow the continuous ingress and egress of passengers for purposes of gambling.

(c) An owner's license issued under this chapter must specify the place where the riverboat must operate and dock. However, the commission may permit the riverboat to dock at a temporary dock in the applicable city for a specific period of time not to exceed one (1) year after the owner's license is issued.

~~(c)~~ (d) An owner's initial license expires five (5) years after the effective date of the license.

SECTION 19. IC 4-33-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. The commission may revoke an owner's license if:

(1) the licensee begins regular ~~riverboat excursions~~ **operations** more than twelve (12) months after receiving the commission's approval of the application for the license; and

(2) the commission determines that the revocation of the license is in the best interests of Indiana.

SECTION 20. IC 4-33-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) Except as provided in subsection (b), ~~a riverboat excursions~~ **cruise** may not exceed four (4) hours for a round trip.

(b) Subsection (a) does not apply to an extended cruise that is expressly approved by the commission.

SECTION 21. IC 4-33-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) This section applies only to a riverboat that operates from a county that is contiguous to the Ohio River.

(b) A ~~gambling excursion~~ **cruise** is permitted only when the navigable waterway for which the riverboat is licensed is navigable, as determined by the commission in consultation with the United States Army Corps of Engineers.

SECTION 22. IC 4-33-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. An action to prosecute a crime occurring during ~~a gambling excursion on a riverboat~~ shall be tried in the county of the dock where the riverboat

1 is ~~based~~ **located**.

2 SECTION 23. IC 4-33-12-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) A tax is imposed
4 on admissions to ~~gambling excursions~~ **a riverboat** authorized under
5 this article at a rate of three dollars (\$3) for each ~~person admitted to the~~
6 ~~gambling excursion~~ **patron who is on board at the time a passenger**
7 **count is recorded**.

8 (b) **Passenger counts must be recorded one (1) hour after the**
9 **start of each reporting period and once every two (2) hours**
10 **thereafter under procedures approved by the commission.**

11 (c) **If the riverboat's schedule as approved by the commission**
12 **does not provide for the riverboat to be open to the public at the**
13 **start of the reporting period, passenger counts must be recorded**
14 **one (1) hour after the riverboat begins admitting patrons during a**
15 **reporting period and once every two (2) hours thereafter under**
16 **procedures approved by the commission.**

17 (d) This admission tax is imposed upon the licensed owner
18 conducting the ~~gambling excursion~~ **operations**.

19 SECTION 24. IC 4-33-13-1 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) A tax is imposed
21 on the adjusted gross receipts received from gambling games
22 authorized under this article at the rate of ~~twenty percent (20%) of the~~
23 ~~amount of the adjusted gross receipts set forth in the following table:~~

24 **Adjusted Gross Receipts**

25 Reported During the State Fiscal Year	Tax Rate
26 Less than \$100,000,000	20%
27 At least \$100,000,000 but	
28 less than \$150,000,000	22.5%
29 At least \$150,000,000 but	
30 less than \$200,000,000	23.5%
31 At least \$200,000,000	24.5%

32 (b) The licensed owner shall remit the tax imposed by this chapter to
33 the department before the close of the business day following the day
34 the wagers are made.

35 (c) The department may require payment under this section to be
36 made by electronic funds transfer (as defined in IC 4-8.1-2-7(e)).

37 (d) If the department requires taxes to be remitted under this chapter
38 through electronic funds transfer, the department may allow the
39 licensed owner to file a monthly report to reconcile the amounts
40 remitted to the department.

41 (e) The department may allow taxes remitted under this section to be
42 reported on the same form used for taxes paid under IC 4-33-12.

43 (f) **Each month the department shall determine the following:**

44 **(1) The amount of taxes imposed by this chapter that are**
45 **remitted by a licensed owner.**

46 **(2) The amount of taxes imposed by this chapter that**
47 **would have been remitted by a licensed owner if the**

1 licensed owner's adjusted gross receipts received from
2 gambling games authorized by this article had been taxed
3 at the rate of twenty percent (20%).

4 (3) The result of the subdivision (2) amount multiplied by
5 twenty-five percent (25%).

6 (4) The result of the subdivision (2) amount multiplied by
7 seventy-five percent (75%).

8 (5) The result of the subdivision (1) amount minus the
9 subdivision (2) amount."

10 Page 149, between lines 15 and 16, begin a new paragraph and
11 insert:

12 "SECTION 132. [EFFECTIVE JULY 1, 2002] **IC 4-33-13-1, as**
13 **amended by this act, applies to riverboat wagering taxes collected**
14 **after June 30, 2002.**"

15 Page 157, between lines 11 and 12, begin a new paragraph and
16 insert:

17 "SECTION 153. THE FOLLOWING ARE REPEALED
18 [EFFECTIVE JULY 1, 2002]: IC 4-33-2-8; IC 4-33-9-2;
19 IC 4-33-12-2."

20 Renumber all SECTIONS consecutively.

(Reference is to EHB 1004 as printed February 22, 2002.)

Senator SERVER